Unsealed on 1/30/08 as to minute order.

ORDERED SEALED BY COURT

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. DANIEL JOSEPH TARCHALA Defendant.	MAGISTRATE CASE NO.: '08 MJ 0220 COMPLAINT FOR VIOLATION OF: Title 18 U.S.C. § 2252(a)(4)(B) - Possession of Images of Children Engaged In Sexually Explicit Conduct

The undersigned Complainant, being duly sworn, states:

On or about October 9, 2007, within the Southern District of California, defendant DANIEL JOSEPH TARCHALA, did knowingly possess one or more matters, that is computer media containing visual images, including file "Pedo=Vicky Compilation (Pthc) 10yo Kiddy Reality Child Get's What She Wants - All Kinds of Fuck Fun With No Delusion)(14m58s).mpg", that had been mailed, shipped and transported in interstate and foreign commerce, and which were produced using materials which have been mailed, shipped and transported in interstate and foreign commerce, by any means including by computer, the production of which involved the use of a minor engaging in sexually explicit conduct, as defined in Title 18, United States Code, Section 2256(2), and which visual depictions were of such conduct; in violation of Title 18, United States Code, Section 2252(a)(4)(B).

And the complainant states that this complaint is based on the attached Statement of Facts incorporated herein by reference.

Todd Walbridge
Special Agent, FBI

Sworn to me and subscribed in my presence this 25th day of January, 2008.

UNITED STATES MAGISTRATE JUDGE

STATEMENT OF FACTS

I am employed as a Special Agent of the Federal Bureau of Investigation (FBI) and have been so for more than four years. I am currently assigned to the Cyber Squad in the San Diego Division. I have received training in general law enforcement and in Cyber investigations including crimes committed utilizing computers and computer networks, such as computer intrusions, denial of service attacks and malicious code. I have experience in investigations concerning Cyber crimes, white collar crimes and violent crimes within the Criminal and Cyber Divisions of the FBI. I have participated in criminal investigations involving computer intrusions, bank fraud, investment fraud, bank robberies, fugitives, innocent images and kidnappings. Prior to my employment as a Special Agent, I was employed in the computer technology field for more than eight years.

On October 25, 2006, the Philadelphia Division of the FBI executed a Search Warrant on the residence of Robert Hughes. Hughes was interviewed at the search location and admitted to trading child pornography videos/images with other people online. Hughes' computer was sent to the Philadelphia Regional Computer Forensic Laboratory (PHRCFL) for analysis. In reviewing the results later received from PHRCFL, several America Online (AOL) Buddy Lists were found on Hughes' computer along with several images of child pornography. All of the attachments that were sent to Hughes via AOL email, were exported into an AOL folder and could not be viewed.

On December 21, 2006, a search warrant was sent to AOL for Hughes' account content. On December 29, 2006 AOL had sent two CD-ROMs with Hughes' account information and content. Located on the CD-ROMs was the user name of "Tarchusmc81" as one of several senders of images of children engaged in sexually explicit conduct to Hughes. On March 2, 2007, an administrative subpoena was sent to AOL requesting subscriber information on accounts of user names to include "Tarchusmc81" found under Hughes' saved e-mails. On March 26, 2007, AOL provided account information showing that the registered user of "Tarchusmc81" to be Daniel Tarchala, P.O. Box 455538, 5105, San Diego, California.

On July 26, 2007, Naval Criminal Investigative Service (NCIS) SA Eric B. Trest, a member of the San Diego Internet Crimes Against Children (ICAC) task force, provided FBI agents information showing that Tarchala was an active duty United States Marine living in San Diego, California.

On October 9, 2007, FBI Special Agent (SA) Todd Walbridge, SA William Kingsford (FBI) and SA Eric Trest of NCIS made contact with Tarchala at Marine Corp Air Station Miramar (MCAS Miramar) in San Diego, CA. Tarchala was advised of Article 31B Rights (Military Suspects Acknowledgment and Waiver of Rights), which Tarchala reviewed and signed, electing to waive his rights. Tarchala was subsequently interviewed and initially denied having anything to do with observing child pornography. He advised that the has never reviewed, downloaded, and/or sent or received any emails containing child pornography. After the agents presented him with some of the known facts of the investigation, Tarchala began to cooperate and advised that he has in fact sent and received emails containing child pornography via his America Online (AOL) email account.

Tarchala said he has exchanged pornography with people via the Internet, mostly via email. He advised that he has sent and received both adult and child pornography via email. Tarchala said it was stupid and that the reason that he looked at child pornography was because it was "taboo". He has been sending and receiving images/videos of child pornography for the last one and a half to two years. Tarchala said he has received some images of child pornography of pre-pubescent individuals under the age of 10 years old. Tarchala indicated that he has masturbated to images of child pornography on his computer. Tarchala explained that although he has had sexual gratification by viewing images of child pornography, he would never actually engage in a sexual act with a child or minor. When asked what the difference was between masturbating to images of child pornography and the desire to have sex with a real child or minor, Tarchala explained that it was different. Tarchala then struggled to try to explain the difference but gave up, admitting that he could not provide a good analogy. Tarchala further explained that he has never sexually touched a child and that he never will.

Agents then asked Tarchala if they could view his computer to which Tarchala voluntarily consented and offered to have agents follow him to his residence. Tarchala then provided agents with his new address and agents followed him to his residence in El Cajon, CA. Tarchala then escorted the agents to his apartment where he had in his bedroom two computers, Computer 1 and Computer 2.

Computer 1 appeared to be connected to Computer 2 via cables. However, Tarchala quickly unplugged Computer 1's cables and provided the explanation that the computer had cables coming from the back of it because he had just moved and had not completely unplugged it. He then handed Computer 1 to the agents. Tarchala advised that Computer 1 was the computer that contained the child pornography.

Tarchala reviewed and signed the FD-941, Consent to Search Computer(s) as to both computers, and also reviewed and signed the equivalent form as required by NCIS. SA Trest then used a forensic software to perform a search of Computer 2 for images of child pornography. SA Trest attempted to forensically review the computer on scene three times without success due software errors. Tarchala consented to having the FBI take possession of Computer 2 so that it could be forensically reviewed at the San Diego Regional Computer Forensic Laboratory (RCFL).

Tarchala voluntarily provided a written statement. In it Tarchala writes the following, "I am being investigated for sending and recieving [sic] child pornography these actions I know where wrong and I am very sorry and ashamed of them."

Tarchala then reviewed and signed the FD-597, Receipt for Property, documenting that the FBI took possession of two Dell Computers from his residence.

During the forensic review, Computer 1 was found to have approximately 991 images of child pornography, which includes 166 still images and five videos (three videos under five minutes, one video 14 minutes 58 second and the final video 20 minutes and 55 seconds). No child pornography was located on Computer 2 and it was returned to Tarchala at his request.

In one video, found on Computer 1 under, Documents and Settings\Dan\Shared\, is the file titled, "*Pedo = Vicky Compilation (Pthc) 10yo Kiddy Reality Child Get's What She Wants - All Kinds of Fuck Fun With No Delusions)(14m58s).mpg*", which is a compilation video consisting of many child pornography videos that have been combined into one video that is 14 minutes and 58 seconds long. The video shows a prepubescent female on her knees with her hands bound in front of her. She has pigtails and a masquerade-type mask that just covers the area around her eyes. An adult male forces her to perform fellatio on a vibrator and then on his penis. The rope that binds her hands has a free end that the adult male keeps in his hand.

In another part of the same video, an adult male inserts the middle finger on his right hand into the anus of a prepubescent female. The video then shows a close up of an adult male penis penetrating what appears to be the same prepubescent female's anus and then performing anal sex on the young girl. A copy of this video is available for the Court to review upon request.

Todd Walbridge
Special Agent, FBI